

**SPECIAL MEETING OF THE  
BRIGHAM CITY COUNCIL  
DECEMBER 10, 2009**

PRESENT:	Lou Ann Christensen	Mayor
	Bruce Christensen	Councilmember
	Reese Jensen	Councilmember
	Ruth Jensen	Councilmember
	Bob Marabella	Councilmember
ALSO PRESENT:	Rick Bosworth	Human Resource Coordinator
	Ben Boyce	Leisure Services Director
	Mark Bradley	City Planner
	Jim Buchanan	Emergency Services Director
	Mary Kate Christensen	City Recorder
	Blake Fønnesbeck	Public Works Director
	Paul Larsen	Economic Development Director
	Bruce Leonard	City Administrator
	Jason Roberts	Finance Director
	Paul Tittensor	Chief of Police
	Dennis Vincent	Police Lieutenant
EXCUSED:	Scott Ericson	Councilmember

Mayor Christensen called the meeting to order and stated that there have been 18 meetings held since 2002. UTOPIA has had 24 open houses at Pioneer Park, 29 block parties and three informational events for Brigham City businesses. The Mobile Command Center has been located in Brigham City since July. They have been available at Peach Days, Pumpkin Festival and other city-wide events. There has been an informational meeting at the Boys & Girls Club and several ad hoc meetings in the Command Center and also in residents' homes for neighbors at their request. This entire process has been a nine year effort. It is not something the Council and staff have taken lightly. There has been a lot of research go into this.

Mayor Christensen addressed the concerns that the Council has heard from residents.

- 1) Residents were not told about the lien. Liens were clearly indicated in the forms signed by residents.
- 2) The \$25/month for 20 years is \$6,000, not \$3,000. Any payment that includes an interest results in a larger amount paid than the original principle.
- 3) Many citizens did not like the tone of the November 12 letter. The November 12 letter included language that was legally required.
- 4) Many are concerned about the foreclosure of property. Brigham City has never foreclosed on a property due to delinquency of an assessment. The City has had many Special Improvement Districts and has never foreclosed on a property due to default. Early financing concept was to use interim warrants which would have allowed prepayments in the Spring after completion of construction. However, interim warrants were not available for this financing.
- 5) Pushy salesmen.
- 6) Didn't understand what was being signed.
- 7) Were told that the prepayment would be in the Spring, not in December.
- 8) Think taxes will increase due to the UTOPIA pledge.
- 9) Residents will be paying for UTOPIA even if they don't use the services. Only those who signed up for the infrastructure will be assessed for it.
- 10) Past promises by UTOPIA have not been met. UTOPIA is under a different management team than the original group and has cut costs and has stabilized the system. This action makes fiber optics available throughout the City and makes it possible for those who want to hook up in the future to do so.

Mayor Christensen stated that the network is owned by Brigham City. This action will enhance the City's economic development efforts. The City will save money over what is being paid for telecommunication services. It enables more efficient City services, remote monitoring, operations, security, etc. It enables competition, ensuring lowest cost and highest quality of telecommunication services. All private sector service providers will have the ability to use the network. This is a city-owned infrastructure just like roads, water,

sewer and power. This action will fulfill UTOPIA's promises to bring telecommunication infrastructure to Brigham City.

The City's 2009-10 operating budget is about \$37 million. The total infrastructure portion of the budget is \$18 million. This year's pledge is 1.07% of the City's total operating budgets. The City's total sales tax pledge to UTOPIA over 33 years, with annual increase, is almost \$18 million. That is 1.46% of the 33 years of the total City budget, assuming no growth. Due to the number of citizens that have prepaid, the total cost to build out the entire City will only be \$188,000. This will come back to the City through new customers signing onto the network. The return on investment to the City for the fiber infrastructure will be repaid within 8-10 years, which is a very conservative number. After that period of time the savings will be ongoing.

Due to the number of people in attendance, the Mayor asked that everyone divide into two groups, those who are supportive of UTOPIA and those who are against UTOPIA. She allowed five minutes to get together and decide who will represent their views. Each side will have ten minutes to speak. All those who speak must be a Brigham City resident.

Mayor Christensen presented the agenda as follows:

**Public Comment**

**New Business**

Request for Approval of Resolution Finalizing the Terms and Conditions of the Issuance of the Special Assessment Bonds for the Purpose of Financing the Costs of Acquiring and Constructing Improvements and Facilities for the Purpose of Connecting Properties to the UTOPIA Fiber Optic Telecommunications Network

Discussion on Possible Areas to Fund Fiber Optic Build Out

Request for Approval of Ordinance No. 09-20 to Adopt the 1100 South Community Development Area Project Plan

A motion to approve the agenda as amended was made by Councilmember Marabella. The motion was seconded by Councilmember Reese Jensen. Councilmember Ruth Jensen suggested the meeting be moved to a larger facility to accommodate everyone in attendance. She suggested the Senior Center. Councilmember Marabella said the Council has had multiple meetings since 2002 and felt that it was time to move forward. Ms. Christensen said there is no recording system or sound system at the Senior Center. The motion unanimously carried.

Councilmember Reese Jensen wanted to clarify an untruth that has been in the community. Brigham City has paid nothing to UTOPIA. There have been accusations that the City has funded all the activity going on by UTOPIA and paid for their big vans, etc. Brigham City has not contributed one dime to that. Councilmember Marabella clarified that the City did pay for postage on the recent letter that was mailed out.

There was a five minute break while the citizens in attendance divided into groups.

**PUBLIC COMMENT**

Those in opposition of UTOPIA spoke first.

Karen Nisonger - Ms. Nisonger said her biggest concern is that UTOPIA is not a necessity; it is not a utility. She did not feel that the average Brigham City person, if they do not want it, should have to pay any part of it. She wanted to know what the City's bonds are and how much are outstanding. With more layoffs coming at ATK and the people that signed on without knowing what they were really signing for, especially the elderly, she felt it was a travesty. Free enterprise is wonderful. When Brigham City joins in and works against free enterprise, she is against it. Public and private should not be mixed, because who is going to answer any problems. She did not want her taxes increased for something she is not interested in.

Dale Smith - Mr. Smith said he is really not for or against UTOPIA, he is upset with the process more than the technology itself. From the beginning it has been very muddled. For example, when people sign contracts

or agreements, contractual law says it has to be clear and understandable and there has to be a meeting of the minds. In fact, Utah State law says when assessment districts are assigned it has to be in detail. In the paper distributed before this meeting it states, "the bond will be established when it's issued and is likely to be approximately 5.5%." Mr. Smith said "likely to be approximately" is the best description of "we have no idea" that he has ever heard. He did not understand how people can have a clear and concise understanding when the numbers on the agreement signed were not even filled in. He expressed concern that there is no protection. If there are not enough people who signed up, will he have to pay the \$3,000 and also his share of increased taxes for his neighbor who didn't pay \$3,000, or is there a provision for him to get a credit against additional City taxes? He added that it showed very poor form when the City Council voted to borrow from itself so it could get hooked up first.

Gary Hunt - Mr. Hunt said he received the letters. He understands that UTA has members that are business members or private members. There are over 2,500 members. Mr. Hunt said he is not a member. He did not think the letter from the Mayor was really a rebuttal. There was nothing in the UTA flier that was out of order or not true and correct. He questioned whether people know the meaning of the word "UTOPIA." It is an imaginary ideal country, Sir Thomas Moore in 1516 wrote a story about it. The Greek meaning is "no place."

Cheryl Anderson - Ms. Anderson said when she was first approached by UTOPIA the salesman said it would be \$3,000. There was nothing mentioned about interest. The contract is all jumbled and she couldn't understand a thing.

Brian Rex - Mr. Rex said this is a lame duck Council and Mayor and he felt it was inappropriate for them to vote on this issue. He thought it would be better to wait until the new Mayor and Council are seated. If more money is committed against his wishes, what guarantee does he have that the money just won't go into a black hole? All money should be held in escrow and not released until actual completion. This should have been the case from day one. One of his neighbors wanted to know if a person has already paid if they can get their money back. ATK announced 800 more layoffs. This will affect Brigham City. He added that five people should never have had the authority to issue bonds without a referendum of the voters. Imagine five people having the legal authority to commit 17,000 people to pay for a project called UTOPIA. George Orwell should have named his novel 2009.

Becky Maddox - Ms. Maddox said when everybody owns something, nobody takes care of it. It is going to take tax monies for repairs. What if somebody jack hammers through the line? Who is going to repair it? There will have to be employees on salary so they can fix it. That will be an added increase. The Council itself said there will be annual increases of sales taxes to pay for things after Brigham City owns it. In this country, government has no business being involved in something like this and telling citizens what they will have. If someone wants this kind of fiber optic, it is up to them to get their friends together to establish a corporation, a company. Don't hide behind the skirts of big mama government. That is not the way to do things in this country.

Mickey Waters - Mr. Waters said everybody is missing the point. Does anyone know why we are doing away with analog broadcasting? All the televisions went to digital just recently. All radio stations are going to do the same thing soon. Everything will be digital. If someone buys a new cell phone, they can do everything they can do on a computer instantly. Laptop computers hook up to relay towers that are up all over the country which talk to the satellites. Everything we have is outdated. Comcast is so worried because digital communications is taking over. He thought that putting money into another cable system and running it through Brigham City is like a dead horse.

Norma Marble - Ms. Marble said the UTOPIA salesman sold this to her husband. She and her husband are 79. She said it is easy for the Mayor and Council to be here and be warm and have a nice salary and say "I see, I want, I buy, you pay for." They have a house that their daughter lives in, and she wanted it so they signed up for it. Now they are stuck with \$6,000.

After ten minutes the Mayor invited those in favor of UTOPIA to speak.

Jim Madsen - Mr. Madsen stated that he has followed UTOPIA even before Mayor Christensen was the Mayor. He fully supports it. He said the City bought the milk, poured the glass, it's been spilt, and it was not

the City's fault, why cry about it? Clean it up and go on. Rural Utility Services was supposed to finance this and there were so many loops to go through that it stalled the entire program so the City had to go to private financing. This was a set back. The City needs to raise approximately \$160,000 to build out the entire City. He asked how many subscribers would be needed to pay that back. If 1,600 subscribers could bring in over a million dollars, the City is about there. The City is rounding third base, so don't stop the ball game here. He fully supports UTOPIA.

Jeff Packer - Mr. Packer chaired the original Telecommunications Committee for Box Elder County 9-10 years ago. UTOPIA is an outgrowth of that. Many of the citizens have received letters from an advisory group that supported UTOPIA. His name was at the bottom of that letter. This has been no small decision. They had 18 meetings and years of study. It is now time for the people that want it to pay for it and the people that don't want it, don't. Mr. Packer stated that he met with Eric Isom from Qwest in his office 8-9 years ago. They spent at least two hours and he begged for any sort of DSL service. They were told no. Brigham City is still on the back end of the increase in telecommunications. He was offended by the surrogate of Qwest and Comcast, which is Howard Stephenson and his Utah Taxpayers Association. He would be more than happy to sit down with any citizen individually and explain the flaws in the information they sent. One of his friends, Rennie Bott, asked him to thank the Council for having the courage to go down this road for many, many years. Let's move forward. Mr. Packer said he serves in the real estate industry and sees the direct impact of economic development. He served as the Governor's Co-Chairman of the Governor's Rural Partnership Board for the State of Utah, which is an economic development board. He knows how important fiber optics is to rural businesses. He has met with all of the Utah rural telecommunication companies, including Qwest. They are building out fiber as fast as they can to their customers. If fiber is an outdated mode, why are they doing it and why are they advertising it? The idea that the taxpayers money is going to pay for UTOPIA is a lie. He was offended how many times in Mr. Stephenson's letter he referred to the proponents, or the members of UTOPIA, as lying. He addressed Mr. Stephenson and said he thought he was as great a liar as anyone that has participated in UTOPIA. It is very unfortunate there is an organization that is representing Comcast and Qwest and sending out letters in their behalf and not telling who is paying for that information. The argument that the average person can't afford it, the average person doesn't have to subscribe to it. It's only for those that want to. It is not against free enterprise. That's like saying the freeway is against free enterprise. UTOPIA is not building out the system and providing the services. There were 1,600+ people that voted with their wallets that want this. In the last election there were approximately 3,200 that voted. That is a pretty good number of people that voted with their wallet. He said he is anxious to move forward and recommended the Council do so.

Jim Madsen - Mr. Madsen stated that the public has had plenty of opportunity during public forum to respond to this. It is terrible to wait until the milk is spilt before crying. The opponents should have complained before hand.

Don Peart - Mr. Peart applauded the Council for the work they have done and will continue to do and for making this available for anyone that wants it, in a mode that they can afford. There are a lot of families in Brigham City that buy cell phones for their kids that are paying a lot more for those and he did not think the technology is near as important as the UTOPIA infrastructure.

Paul Roberts - Mr. Roberts said he was the #2 connection. He has been a supporter of UTOPIA since he first heard about it. He highly recommended it and appreciated the work the City has done, in spite of all the dirty tricks, underhanded actions and the 800 pound gorilla that is spending \$22 billion to get NBC, that doesn't want little gnats like UTOPIA taking over their turf. He highly recommended getting the job done and start thinking of some things like defranchising the other people on the poles.

Ken Sutton - Mr. Sutton stated that he owns brigham.net. Anybody that says fiber is on its way out doesn't have a clue. Anyone that says wireless is going to be the next up and coming thing, has never set up a wireless router, has never taken their cell phone out and tried to browse the internet. The fastest thing available does not even come close to the minimum available with fiber. Copper is not going to do it. Both wireless and copper have been out for many, many years. They have kept pushing the limits and they are about one hundred thousandth of what fiber is capable of doing. Fiber is the future and is the future for at least the next 20 years, and probably a lot longer. Every service that citizens are getting now is in some way being delivered by fiber.

## NEW BUSINESS

### **Request for Approval of Resolution Finalizing the Terms and Conditions of the Issuance of the Special Assessment Bonds for the Purpose of Financing the Costs of Acquiring and Constructing Improvements and Facilities for the Purpose of Connecting Properties to the UTOPIA Fiber Optic Telecommunications Network**

Mayor Christensen invited Laura Lewis from Lewis & Young and Jason Roberts to the table. Mr. Lewis explained that the items before the Council are regarding the bond documents and the consideration and approval of the bond purchase agreement. The bonds are rated A-3. These are not general obligation bonds because it does not affect the property taxes of the residents. The final interest rate, including all costs, is 5.52%. If the bond is approved, the City will be issuing \$3.66 million in bonds. The Brigham City completion contribution is \$188,000, businesses that sign up will be \$50,000 and the individuals that prepay will pay \$2,760. She was amazed at how many people prepaid, especially in this down economy. The City has received \$1,096,310 in prepayments. A deposit to the capitalized interest fund will allow construction to be completed before the City sends out the monthly bills. The deposit to the construction fund will be \$4,804,722.

Councilmember Christensen responded to citizens' comments that this is a moving target and they don't know the dollar amounts. The reason the numbers were not available is because it was unknown who had signed up and how many prepaid until the last minute. Ms. Lewis added that interest rates change daily, which impacts the numbers.

Mayor Christensen asked the Council if they had any comments.

Councilmember Marabella - Councilmember Marabella stated that he has been involved with UTOPIA in a number of different ways since 2002. There has been a lot of miscommunication and a lot of information where citizens did not have all the facts. There are a few very important points for anyone that is against UTOPIA.

Number one is that it is a voluntary system. No citizen in Brigham City is required to pay into UTOPIA unless they volunteered to be part of it. If a person wants to play golf at the golf course, you pay to play. If a person wants to have UTOPIA, they sign up and pay. There are citizens that are very, very upset over this. If they don't want to be a part of it, then don't, but don't penalize the rest of the citizens that want it.

Another point is that the postcard that came from UTA, in his personal opinion, was absolutely incorrect. The term Utah Taxpayers Association gives an indication that they are protecting citizens as taxpayers. But if UTOPIA fails, taxpayers have to pay that amount. He did not understand why the UTA would be against UTOPIA because if this fails, the Council will go to the citizens and ask, through the budget, to pay the bond payment with taxpayer's money.

As Mr. Packer discussed, when the Box Elder Telecommunication Task Force was formed, the Task Force did not want to build out a fiber system and instead approached Qwest, AT&T and Comcast and asked them to bring fiber to Brigham City. In 2002, Councilmember Marabella was the General Manager of Wal-Mart and they had fiber because they were willing to pay a large amount of money to bring it in. These companies were not willing to bring it to them.

Councilmember Marabella said his bill is \$94 per month for DSL and phone. That \$94 is going into Qwest's pocket. On Monday, he contacted Qwest and asked them to add a phone line to his home. He thought the representative would be there for 15 minutes. However, he had to go up the pole because the phone system going into his house only had the capacity for one phone line. He had been paying \$94/month for years and he didn't have the state-of-the-art system. They had to run the line 2,000' away from his house, through two of his neighbor's houses to get a new phone line. This is an example of taking money paid by customers and putting it in their pockets instead of improving infrastructure, providing fiber and providing the latest system.

Councilmember Marabella said he would hope that Qwest, AT&T and Comcast join the UTOPIA network so citizens have more choices.

Councilmember Christensen - Councilmember Christensen said this is a very emotional issue. Many people still don't understand what's going on. There is still a lot of misinformation. He became involved in telecommunications in the mid 1990s. He talked to a good friend of his who was the vice president of AT&T and he said fiber optics was scheduled for full build out in Utah in the 1990s, and it hasn't happened. He said he has worked on economic development in the County for many, many years. In the last few years, the question businesses almost always is if fiber optics is available.

Councilmember Christensen said he doesn't like the way this has to be done. He would have preferred to have it done the way it was set up originally so the City wouldn't have to bond. If the community is going to get fiber, the City will need to provide it for them. There are 1600 families that want it, so it needs to be provided for them. He added that he was glad that the City is able to do a full build out. If not, there would have been approximately 500 families left out, which would not have been fair.

The funds that Brigham City is signing up for to bring fiber to City facilities is expensive, but there will be a return on investment.

Councilmember Reese Jensen - Councilmember Reese Jensen said this is much bigger than Brigham City. Brigham City is one of 16 cities and one of 11 pledging cities that have joined together to put fiber optics along the Wasatch Front. He felt that the City had a moral obligation to the other cities that took on this significant project. Brigham City is a flagship for the other cities. They are watching very closely to see how successful Brigham City is to see if funding through a special assessment bond is a plausible way of implementing UTOPIA. He felt an obligation to the other cities.

The City is past the point of no return. He added that he was not happy in the way it came about, and he was not part of the original decision, but he is committed to it. He would not go back and do anything differently. It's not a matter of dollars and cents; it's in the best interest of Brigham City's future. He felt there is a disconnect between the City Council, Mayor and the City's inherent responsibility to plan for the future as opposed to the citizens who always look at it as "what is in it for me now and how does it affect me today?" He felt strongly that it is in the City's best interest to put fiber in. It is needed for the future. Technology is heading in that direction.

Councilmember Reese Jensen said he grew up west of Brigham City and lived there when Interstate 15 was constructed. He remember thinking at the time what a waste of money it was to build an interstate when there were hardly any cars going north or south on the interstate. He looks at that now and wonders what would have happened if government officials hadn't had the foresight to construct that interstate. He compares UTOPIA to this. It is the communication highway. It is open for anyone to drive on it, anyone to use it. He projected that within 3-5 years people will wonder what they ever did without UTOPIA. In the meantime, the citizens are going to have to trust the Council.

In the time Councilmember Reese Jensen has been on the City Council he has had more input on this one issue than he has any other issue. It is interesting that he has received more input since the UTA mailing went out. He figured that 80% of all the input he received from the citizens in the last two weeks has been in favor of UTOPIA. He felt that what the Council is doing the silent majority is in favor of, and he was not going to buckle to the threats, intimidations, or vocal outcries of the minority. He felt the Council had an obligation to do what is in the best interests of the entire City.

Councilmember Ruth Jensen - Councilmember Ruth Jensen said she also has had a lot of calls on this issue, about 50% on both sides. She stated that she was still concerned about several things. The Mayor stated earlier that the City has been working on this for over seven years and there have been about 18 meetings. That averages two meetings a year. Seven years is 2,555 days, and only 18 days were applied to this issue. She stated that she is not one of those people that go along to get along. Sometimes somebody has to ask the hard questions, even if it is not very popular. She said she did not know anything about the Taxpayer's Association until they sent the postcard. They were questioned on why they were jumping in now. She researched this Association on the internet and found that they have been investing in the City quietly. The last time was on June 9, 2009.

At the beginning of this year Councilmember Ruth Jensen questioned UTOPIA executives about when fiber will be installed and they wouldn't answer her. She was finally able to pin the CEO down and he said it would be in July 2009. July came and went and nothing happened. Then he came back to the City and said they can make this happen if residents pay an installation charge. This is not what was asked of the residents seven years ago; it is not what was on the committees. UTOPIA executives also told her that if Brigham City doesn't make it, it's because it's Brigham City's fault; if this fails, it's because Brigham City didn't want it. She did not agree. There are a lot of people that want it, they just don't want to take it the wrong way.

Councilmember Ruth Jensen said she has been asked why she didn't sign the letter that was sent out to all the citizens regarding UTOPIA. She explained that it did not agree with what she knows and what she believes in. She recently read a quote, "If you can't produce your very best effort, don't put your name on it." She felt that she cannot put her best effort on this project and she did not want to disappoint anybody and put anyone in financial trouble. She has had little old ladies, nice little old senior citizens tell her that they do not even use their computer any more, but because they knew they had to help Brigham City they signed up anyway. These are people in their 80s and 90s. She felt bad that she is helping to write this project on their backs.

Councilmember Ruth Jensen said she talked to the Finance Director earlier and asked what would happen if the Council decided to wait on these bonds because there is so much more citizen interest now. Mr. Roberts told her the interest rate would probably increase by at least 1%. She recommended the Council hold a public hearing and consider extending the deadline for citizens to cancel their contract.

Councilmember Ericson - Mayor Christensen read a written statement from Councilmember Ericson. "UTOPIA has been an extremely polarizing issue in the City. I don't believe that government should not be involved in anything that has the appearance of competing with private enterprise. UTOPIA provides the opportunity for any service provider to have access to an open network and many, many more customers. It levels the playing field for the smaller companies. Regardless of this issue, by virtue of the initial 2004 pledges, the City is stuck. Either we walk away from the pledges and pay the \$17 million that has been pledged over the next 30 years, or we try to figure out a positive outcome for City taxpayers. There's been much confusion about the pledges and the bond. They are two separate issues and there is an important distinction that needs to be made here. Because of the decision in 2004 to pledge money to UTOPIA with sales tax dollars which come from the general fund, if UTOPIA fails, every citizen will be impacted. The bond being discussed tonight is something totally different. Only those included in the special assessment area will be paying for the bond. Except for the connection of City facilities, the bond payment costs will not come from City budgets but from the individuals who have voluntarily agreed to increase their taxes to bring fiber to Brigham City. The vehicle that was ultimately decided on to create an opportunity for UTOPIA to be successful was the implementation of the voluntary special assessment area (SAA). This concept is similar to a special improvement district (SID) but includes a few significant differences. An SID can be implemented by the vote of the public and a tax that is placed on all those within the boundaries of the SID, whether they voted for it or not. These have been used throughout the City for such things as sidewalk and curb and gutter improvements. An SAA is similar but the tax is only placed on the properties who voluntarily asked for their property to be assessed. Both of these options include a lien on the property. Now I don't like tax increases, but if it is possible to have a good way to increase taxes, this is it. Only those who volunteer for the SAA are included in the increased tax. These liens that are created act as collateral for the bond that the City will enter into to create the fiber optic network throughout the City. Only those homes included in the SAA will pay for the bond.

"To me, the pledges are a frightening thing. Unless UTOPIA is successful, those pledges will have to be paid and will financially cripple the City for the next 30 years. The only way UTOPIA can be successful is for individual homeowners to connect to UTOPIA and begin the private service providers available on the UTOPIA network for their telecommunication needs. The more individuals that voluntarily connect to UTOPIA the less likely it is for the pledges to be called on in the long term.

"At this point, I don't believe that there are any good solutions with UTOPIA. Bonding through the SAA in hopes of avoiding long term pledges is, in my opinion, the best option in this no win scenario."

Mayor Christensen asked Ms. Lewis to address some of the issues brought up by the Council and citizens.

Ms. Lewis explained how bonds are issued and stated that if the Council held a public hearing everything would have to start over again. The interest rates will change, the investor community will be decimated because they would have seen the bonds before and they had an order before and then it was pulled. Another impact is that there will be an increase interest cost.

Regarding allowing more people to rescind, Ms. Lewis explained that the bond size has already been set and the investors that have already invested have agreed to buy the bond at a certain dollar amount. If any more rescind it will change everything. She added that citizens have been given ample opportunity to rescind.

Mayor Christensen stated that there have been more than 18 meetings, these are only public meetings. She met every week with Jeff Packer for a year and a half. The Telecommunications Partnership Board as well as the Telecommunications Task Force and UTOPIA have put in thousands and thousands of hours into research and the fundamental justification for fiber for Brigham City.

Mayor Christensen said the United States is 20th in the world in fiber optic technology. Being able to offer a partnership with communities bound by fiber optics is a model for the entire United States as well as the world. This is groundbreaking and there are a lot of people watching what happens here. This is being done for everyone that lives in Brigham City. It will lower rates. Competition brings down prices.

MOTION: Councilmember Reese Jensen made a motion to approve the resolution finalizing the terms and conditions of the issuance of the special assessment bonds for the purpose of financing the costs of acquiring and constructing improvements and facilities for the purpose of connecting properties to the UTOPIA fiber optic telecommunications network. The motion was seconded by Councilmember Christensen. Councilmember Reese Jensen stated that when she said 18 meetings she did not mean 18 meetings total, she meant 18 meetings with citizens. This is groundbreaking technology on back breaking seniors. Councilmembers Christensen, Marabella and Reese Jensen voted aye. Councilmember Ruth Jensen voted nay. The motion carried 3-1.

#### **Discussion on Possible Areas to Fund Fiber Optic Build Out**

Mr. Roberts came to the table and discussed funding options to install fiber optics throughout the entire City and to City facilities. These options were discussed in a previous meeting, but now that the numbers are known for the bond these are more exact numbers.

It will cost approximately \$294,000 to hook up Brigham City facilities within the footprint of the fiber optic infrastructure. It was originally estimated that it would cost \$372,000 to build out the entire City. However, after final numbers have been received and after receipting the money for those that paid their assessments up front, it will be \$188,000. Mr. Roberts added that this money will *not* go to UTOPIA. The infrastructure is owned by Brigham City, so this is for the construction costs within the City. There will be an asset on the books after it is completed. It will be paid back to the City as new subscribers connect. The total amount needed for both projects is \$481,761.

The following funding sources were discussed:

1. UTOPIA Pledge in 2008-09 budget. There is \$300,000 in escrow in case UTOPIA needs it. If it is called upon, the City has twelve months to replenish the funds. If it was called on, he would not recommend taking the money out until the last minute so the City continues to get interest on it. Therefore, even if they called for the pledge tomorrow, he would not draw it out until the next budget year.
2. Capital Project Fund - Impact Fee Study. If an impact study is completed and it shows that impact fees should be increased, it was questioned whether the Council would increase the fees in the current economic environment. If the Council decided not to do the study, there would be \$75,000 available.
3. Refund for City Building Connections. Initially, the City connected five City buildings to fiber optics for \$26,000. It was anticipated that if the bonds passed for the SAA the City would be reimbursed for \$11,000. This would be available because budget line items were decreased to pay for this.
4. Capital Project Funds. There were three capital projects that came in under budget. There is approximately \$20,000 available because of this.



All four of these items come to \$406,418, leaving \$75,000 that still needs to be funded. This could be taken from the utility fund balance. Councilmember Marabella suggested that if the Council agrees to take the \$75,000 from the utility fund that any revenue brought in be used to pay back that fund.

MOTION: Councilmember Marabella made a motion to appropriate the funding sources as outlined by Mr. Roberts and that the \$75,343 be used from the utility fund balance with the understanding that as new subscribers sign up for UTOPIA the revenue will be used to replenish the utility fund revenue line. The motion was seconded by Councilmember Reese Jensen. Councilmember Ruth Jensen said she knows this is going to happen, but she wanted some avenue for subscribers to rescind. She felt that it was possible to let some people rescind. She has worked in retail all her life and if there is one disgruntled person that is dissatisfied with a service or product, they tell ten other people and those ten people tell ten other people, etc. She asked staff to find a way to allow this to happen.

AMENDED MOTION: Councilmember Marabella made an amended motion to appropriate the funding sources as outlined and the \$75,343 come from the utility fund balance, but not use the revenue to pay back the fund until discussion can be held with the Mayor and Councilmember Elect. The amended motion was seconded by Councilmember Reese Jensen.

SUBSTITUTE MOTION: Councilmember Ruth Jensen made a motion to have staff and Council find a way to help those that want to opt out. Councilmember Marabella said if he buys a car and gets his financing all set up, he can't take his car back two weeks later. The banks will not allow that. Councilmember Ruth Jensen said there is a Lemon Law that allows people to opt out of purchases. Mr. Kirk Morgan explained that everyone has three days to rescind a contract when they purchase something from a door to door salesman. In addition to this option, UTOPIA subscribers had three days to rescind the contract after the City notified them the bond was going to take affect. They had two options to opt out. Councilmember Ruth Jensen said some people got the letter on Thursday, some on Friday and some on Monday. Some people got it and did not understand it. Mayor Christensen called for a second on the motion. The motion failed for lack of a second.

Mayor Christensen called for a motion on Councilmember Marabella's amended motion. Councilmember Christensen, Councilmember Marabella and Councilmember Reese Jensen voted aye. Councilmember Ruth Jensen voted nay. The motion passed with a 3-1 vote.

**Request for Approval of Ordinance No. 09-20 to Adopt the 1100 South Community Development Area Project Plan**

This was discussed in a joint meeting with Perry City Council at Perry City Hall.

MOTION: Councilmember Christensen made a motion to approve Ordinance No. 09-20 to adopt the 1100 South Community Development Area Project Plan, seconded by Councilmember Marabella and unanimously carried.

A motion to adjourn was made by Councilmember Reese Jensen. The motion was seconded and carried unanimously. The meeting adjourned at 9:45 p.m.